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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/976,836	10/12/2001	Charles Eric Hunter	WT-3-CIP4	2310

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EXAMINER	
NGUYEN, CUONG H	
ART UNIT	PAPER NUMBER
3625	

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.	Applicant(s)
09/976,836	HUNTER ET AL.
Examiner	**Art Unit**
Cuong H. Nguyen	3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *Aug 14, 2002* .

2a) ☐ This action is **FINAL.** 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-5* is/are pending in the application.

4a) Of the above, claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *1-5* is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a) ☐ All b) ☐ Some* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____ .
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

14) ☒ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

15) ☒ Notice of References Cited (PTO-892)

16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 6

18) ☐ Interview Summary (PTO-413) Paper No(s). _____

19) ☐ Notice of Informal Patent Application (PTO-152)

20) ☐ Other:

DETAILED ACTION

1. This Office Action is the answer to the communication received on 8/14/2002 (the Power of Attorney paper), and the IDS received on 7/25/2002.

2. Claims 1-5 are pending in this application

Drawings

3. This application has been filed with informal drawings which are required to correct according to the attached notice of a USPTO draftsman.

Restriction/Election

4. The examiner submits that group I contains: claims **1-2**, for a subject matter of buying products online, with US classification: **705/26;** and group II contains claims **3-5** for a subject matter of using information (i.e., customer order number) to check a customer for security purposes at public venues (e.g., using smart-cards containing all identifications/information about a customer) with US classification: **235/382** (the subject matter is about identification cards with permitting access).

These 2 groups create 2 separate inventions as defined by 2 above distinguished US classes.

An election for one of above 2 groups of claims is requested (currently, group I is assumed to be selected because this case was classified into examiner's field of assignment: classification **705**).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraph of 35 U.S.C. § 102 in view of the AIPA and H.R. 2215 that forms the basis for the rejections under this section made in the attached Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

35 U.S.C. § 102(e), as revised by the AIPA and H.R. 2215, applies to all qualifying references, except when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. For such patents, the prior art date is determined under 35 U.S.C. § 102(e) as it existed prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. § 102(e)).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office Action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims **1-2** are rejected under 35 U.S.C. § 102(e) being anticipated or, in the alternative, under 35 U.S.C. 103(a) as obvious over **Mann** et al. (US Pat. 6,119,096).

6. Re. To claim I: **Mann** et al., suggest an automated order processing system permitting customers who have already provided customer information to the system to order selected products from a vast array of products offered by multiple participating merchants, said system comprising:

- a product database including information corresponding to an order number assigned to each product offered through the system by multiple participating merchants (see Mann et al., Figs. 1a, 4, 7, 9c);

- a customer database including a customer information set for each system customer, said information set including customer identification information, customer address information and method of payment information (see Mann et al., Figs. 1a, 4, 7, 9a);

- a customer interface for receiving incoming product orders from customers who have connected to the system via a system address and for identifying each customer placing an order;

means employing information from the customer database for matching each incoming customer order to the customer information set for that customer (see Mann et al., 5:11 to 6:26):

"One or more point of purchase scanning computers 111, with associated biometric scanners 112, may be connected to scan control and accounting computer 104 so that users within the transit system, hall, arena, etc. may obtain goods and services by submitting to a further biometric scan at the point of purchase. Such points of purchase may include newsstands, concessions, retail stores, and various services provided within the fee-for-access area accessed through turnstiles 102. Goods and services purchased in this manner result in debits to user accounts which are accomplished according to any of the methods described herein. Point of purchase scanning computer 111 may optionally be provided with a copy of database 106 and with software for real-time matching of a biometric scan from scanner 112 with a corresponding user record from database 106. This software may be identical to that provided in scan control and accounting computer 104. In this embodiment, point of purchase scan computer 111 performs user identification independently of the operation of scan control and accounting

computer 104, and when identification is complete, may either directly initiate a charge to one of user's financial accounts using financial network 110 (to which point of purchase scanning computer 110 is connected), or may pass one or more information packets to scan control and accounting computer 104 specifying the user account, purchase amount, and information about the purchase, so that scan control and accounting computer 110 may debit the user account or accounts in a predetermined manner as will be described in more detail below.";

- means employing information from the product/merchant database for matching each incoming customer order to a participating merchant (see **Mann** et al., Figs. 1a, 4, 7); and

- means for communicating processed orders to the participating merchant that provides the ordered product; wherein the participating merchants include airlines or other entities providing security services at public transportation sites or other public venues and the product offered comprises check-in security clearance for customers (see **Mann** et al., Fig.9c, 1:39-45): "Airlines similarly depend on tickets to determine who will be allowed to board an aircraft. Unauthorized resale of tickets and security concerns about allowing unidentified persons on board an aircraft has recently led the Federal Aviation Administration, and airlines, to require that passengers show identification when checking in, in addition to a ticket.",

or (see **Mann** et al., Fig.9c, 1:39-45, in the summary of the invention Para. 17): "Another important object of the invention is to provide an improved biometric ticketless identification system which facilitates making airline reservations,

checking in, and boarding of aircraft and provides enhanced verification and enhanced security features".

Or (see Mann et al.,17:52-58:In Detailed Description Text portion (Para. 61): "As another feature of the invention, shown in block 618, shortly before departure of the aircraft, the system may automatically generate a list of passengers who checked luggage but who did not actually enter the aircraft, based on biometric scan records at the gate. Any "unaccompanied luggage" may then be removed from the cargo hold as a security measure.").

Therefore, Mann et al. sufficiently suggest claim 1's limitations.

7. Re. To claim 2: Mann et al., suggest a method permitting customers to use an order processing system to order selected products from a vast array of products offered by multiple participating merchants, said method comprising:

establishing accounts between an order processing system and multiple participating merchants who have agreed to offer their respective products for sale (see Mann et al., Figs. 1a, 9c); assigning an order number to each product offered by the participating merchants (see Mann et al., Fig. 1a); (please note that establishing accounts and assigning order numbers would be done by registration module #108);

establishing a customer database including a customer information set for each customer, said information set including customer identification, customer address information and method of payment information (see Mann et al., Fig. 1a); (please note that establishing database with particular info. would be done by registration module #108);

- each customer, when desiring to place a product order, utilizing a system address to establish contact with the system and entering the order number for the product desired (see Mann et al., the structural relationship between customers and such system would be similar to structural relationships in Figs.1a, 5-6; in Brief Summary Text portion 3:48-59 (Para. 31):

"These objects and others are achieved by providing an integrated access control and accounting system which identifies registered users by scanning a stable biometric characteristic as the user passes through a checkpoint. An account associated with the user is then debited by a ticket charge, usage fee, fare, or other charge appropriate to the site or conveyance accessed through the system. In various preferred embodiments, the system is connected ; to a financial network for processing of charges, and point of purchase stations are provided within the controlled area so that registered users may charge goods and services to their accounts without carrying cash or other artifacts.", or in Detailed Description Text portion 6:28-43 (Para. 11):

"If point of purchase scanning computer 111 is provided with a standalone copy of database 106 containing user account and biometric data, this database copy may be continually updated in real time, or may be updated periodically (e.g. once a day during the early morning hours) from the master registration database associated with scan control and accounting computer 104. For simplicity, only one turnstile installation and point of purchase system are shown in FIG. 1a, but it should be understood that one such scan control and accounting system 104 may be designated to control a master database which is updated from many registration stations throughout the associated transit systems and/or event locations. These updates may be continuous or may be performed at intervals, either using a communications network or through

personnel visiting the site and manually loading ..." to establish contact with the system and entering the order number for the product desired;

- identifying each customer placing an order and employing information from the customer database to match each incoming customer order to the customer information set for that customer (see Mann et al., Figs. 1a, 3, 5); (please note that identifying users to match order numbers would be done by module #502);

- communicating processed orders to the participating merchant that provides the ordered product; wherein the participating merchants include airlines or other entities providing security services at public transportation sites or other public venues and the product offered comprises check-in security clearance for customers (see Mann et al., structural-block relationships in Fig.4, in Brief Summary Text portion 1:39-45 (Para. 7):

"Airlines similarly depend on tickets to determine who will be allowed to board an aircraft. Unauthorized resale of tickets and security concerns about allowing unidentified persons on board an aircraft has recently led the Federal Aviation Administration, and airlines, to require that passengers show identification when checking in, in addition to a ticket."; or in Brief Summary Text portion 2:54-57 (Para. 17):

"Another important object of the invention is to provide an improved biometric ticketless identification system which facilitates making airline reservations, checking in, and boarding of aircraft and provides enhanced verification and enhanced security features".

Or in Detailed Description Text portion 17:52-58,(Para. 61):

"... another feature of the invention, shown in block 618, shortly before departure of the aircraft, the system may automatically generate a list of passengers who checked luggage but who did not actually enter the aircraft, based on biometric scan records at the gate. Any "unaccompanied luggage" may then be removed from the cargo hold as a security measure.").

8. Note: Mann et al. disclose about verifying the identity of the customer desiring entry, see the Abstract: "A system and method for automated aircraft boarding uses an iris recognition system for check-in and boarding. The passenger is enrolled once and assigned an account number. The passenger thereafter makes reservations using that account number. On arrival at the airport, the passenger is identified using an iris recognition system and automatically checked in for the flight, without the use of cards or other identification. Entry to the aircraft at the gate may also be provided with an iris recognition station. In one preferred embodiment, baggage check and baggage reconciliation are also performed using iris recognition. In its preferred embodiment, the disclosed system and method enhances customer convenience by eliminating tickets, boarding passes, and identification steps, while improving aircraft security".

In their patent, Brief Summary Text portion (Para. 7) 1:39-45, Mann et al. also disclose:

"Airlines similarly depend on tickets to determine who will be allowed to board an aircraft. Unauthorized resale of tickets and security concerns about allowing unidentified persons on board an aircraft has recently led the Federal Aviation Administration, and airlines, to require that passengers show identification when checking in, in addition to a ticket".

Or in Brief Summary Text portion (Para. 17) 2:54-58:

"Another important object of the invention is to provide an improved biometric ticketless identification system which facilitates making airline reservations, checking in, and boarding of aircraft and provides enhanced verification and enhanced security features.";

And in Detailed Description Text portion (Para. 61) 17:52-58:

"As another feature of the invention, shown in block 618, shortly before departure of the aircraft, the system may automatically generate a list of passengers who checked luggage but who did not actually enter the aircraft, based on biometric scan records at the gate. Any "unaccompanied luggage" may then be removed from the cargo hold as a security measure.").

9. About a claimed feature of "the customer identification information in the customer database includes digital photographs of customers", Mann et al. also disclose, in Detailed Description Text portion (Para. 5) 5:3-6: "Registration station 108 includes a biometric sensor 112 which captures real time data corresponding to a stable physical characteristic of a person such as a fingerprint, palm print, full facial image, features of the iris of the eye, eye retinal pattern, body thermal image, or DNA pattern.");

and in "Detailed Description Text portion (Para. 7) 5:29-45:

"Database 106 stores the biometric data collected by biometric sensor 112 at registration station 108 for each user, in conjunction with information about the services purchased by that user. For example, in a typical mass transit access control system according to the invention, each rider would have identifying biometric information stored in database 106, along with an account balance equivalent to a farecard balance. Typically this account balance would be established by debiting the user's bank account or credit card by a predetermined amount, such as $30, using the connection to financial network 110. In a typical arena or hall ticketing system according to the invention, each patron, or a single representative of each patron group who purchased the

tickets, would have identifying biometric information collected and stored. The patron's record would also identify the event or events for which tickets were purchased, and particular assigned seating for the event(s).".

10. About "monitoring activities associated with individual customers and cross referencing the activities of customers to generate a customer security rating that is communicated to the public transportation site or public venue for use by security personnel at the site or venue", Mann et al. also disclose, in Brief Summary Text portion 1:39-45 (Para. 7): "Airlines similarly depend on tickets to determine who will be allowed to board an aircraft. Unauthorized resale of tickets and security concerns about allowing unidentified persons on board an aircraft has recently led the Federal Aviation Administration, and airlines, to require that passengers show identification when checking in, in addition to a ticket.",

or in Brief Summary Text portion (Para. 17) 2:54-58: "Another important object of the invention is to provide an improved biometric ticketless identification system which facilitates making airline reservations, checking in, and boarding of aircraft and provides enhanced verification and enhanced security features".

In Detailed Description Text portion (Para. 61) 17:52-58: "As another feature of the invention, shown in block 618, shortly before departure of the aircraft, the system may automatically generate a list of passengers who checked luggage but who did not actually enter the aircraft, based on biometric scan records at the gate. Any "unaccompanied luggage" may then be removed from the cargo hold as a security measure.").

Conclusion

11. Claims **1-2** are unpatentable; claims **3-5** would be restricted.

12. Note: Claims 4-5 would be rejected under 35 USC 103(a) on eBay.com in view of the Official Notice because:

A. Claim 4 with a feature of "digital photographs of customers" are analogous to old and well-known photograph IDs, it would require less consideration of alternatives. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to consider fewer choices among the communication devices because this would require less mental effort in the consideration of alternatives.

B. Claim 5 contains a concept of monitoring activities associated with individual customers to generate a customer security rating are analogous with FBI files where similar works have been done with criminal/terrorist suspects. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to consider similar works have been used for security purposes.

13. As another example of sufficiently analogy to claimed concept, **eBay.com** – an Internet auction house - also used an automated order processing system permitting customers who have already provided customer information to the system to order selected products from a vast array of products offered by multiple participating merchants, said system comprising:

product/merchant database means (connected to the web site, which retrieved product information by URL), including information corresponding to an order number assigned to each product (e.g. monitor, telescope, etc.) offered through the system (over the Internet) by multiple participating merchants, each

order number identifying a unique product and an associated merchant offering the product;

a customer database (required in order to look up the customer information by customer number) including a customer information set for each system customer, said information set including customer identification, customer address information, and method of payment information (e.g. credit card number and expiration date);

means (the Internet) for receiving incoming product orders from customers who have connected to the system via a system address (e.g. www.onsale.com) and for identifying each customer placing an order;

means employing information from the customer database for matching each incoming customer order to the customer information set for that customer;

means employing information from the product/merchant database for matching each incoming customer order to a participating merchant (see invoice); and

means (computer, e-mail system, or alternatively, invoice lookup program invoice.exe) for communicating customer information to the participating merchant that provides the ordered product.

eBay.com obviously has a product database describing the products for sale. The database comprises information supplied by participating merchants (people who want to sell things). The information are obviously accessed by product information order numbers that identify unique product information packages (web pages, created from portions of the database) and the

participating merchant associated with each package. In other words, the web pages/(email address) describing each relating product are accessed using a unique URL with a query that contains this "identification".

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to allow the merchant to supply the information describing the products because the seller is in the best position to know the most information about the product being sold, since the seller typically has possession of the product.

eBay.com obviously suggests the features of the invention as described, but fails to indicate that either photograph ID of customer could be used for recognition. However, FBI have been used photo ID to recognized suspects. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to substitute a voice recognition system for the computer system of **eBay.com** for the sale of items because a telephone system with voice recognition is an art-recognized equivalent for a computer system to put in item sales or purchase information to effect the sale of an item.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to suggest a system for combining the available teaching references (submitting as IDS documents) in the disclosure of **eBay.com** and the **Official Notices** because these combination would implement extra features of security on public venues.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cuong H. Nguyen whose telephone number

is 703-305-4553 The examiner can normally be reached on Mon.-Fri. from 7:00 AM to 3:15 PM (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Wynn Coggins, can be reached on (703)308-1344.

Any response to this action should be mailed to:

Amendments

Commissioner of Patents and Trademarks
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or faxed to: (703)305-7687 [Official communications; including After Final communications labeled "Box AF"]

703-746-5572 (RightFax) Informal/Draft communications, labeled "PROPOSED" or "DRAFT"]

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, Arlington, VA, 7th floor receptionist.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Receptionist whose telephone number is (703)308-1113.

Cuong Nguyen
Primary Examiner
Mar. 09, 2003